

DLD-48

November 16, 2006

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **06-2133**

DEMETRIUS BROWN,

v.

U.S. JUSTICE DEPARTMENT; BUREAU OF PRISONS; FCI MCKEAN;
JOHN J. LAMANNA, Warden; D. SCOTT DODRILL, Regional Director;
HARLEY G. LAPPIN, Director of BOP; DR. NEWTON E. KENDIG, Medical Director

(W.D. Pa. Civ. No. 04-cv-00379E)

Present: **BARRY, AMBRO AND FISHER, CIRCUIT JUDGES**

Submitted are:

- (1) By the Clerk for possible dismissal due to a jurisdictional defect;
- (2) Appellees' motion for summary action;
- (3) Appellant's opposition to Appellees' motion for summary action;
- (4) Appellant's jurisdictional response; and
- (5) Appellant's motion to expedite appeal

in the above-captioned case.

Respectfully,

Clerk

MMW/BNB/awi

ORDER

Because the order appealed does not deny a preliminary injunction that is related to the relief ultimately sought by the Appellant, see Hershey Foods Corp. V. Hershey Creamery Co., 945 F.2d 1272, 1276-77 (3d Cir. 1991), the order is not appealable at this time. Accordingly, the appeal is dismissed for lack of appellate jurisdiction. Appellees' motion for summary action and appellant's motion to expedite appeal are

denied as moot.



Dated: 14 December 2006
A True Copy
AW/C/C:DB

Marcia M. Waldron

Marcia M. Waldron, Clerk

By the Court,

/s/ Maryanne Trump Barry
Circuit Judge